

1 IN THE UNITED STATES DISTRICT COURT FOR THE  
 2 NORTHERN DISTRICT OF OKLAHOMA  
 3  
 4

5 W. A. DREW EDMONDSON, in his )  
 6 capacity as ATTORNEY GENERAL )  
 7 OF THE STATE OF OKLAHOMA and )  
 8 OKLAHOMA SECRETARY OF THE )  
 9 ENVIRONMENT C. MILES TOLBERT, )  
 10 in his capacity as the )  
 11 TRUSTEE FOR NATURAL RESOURCES )  
 12 FOR THE STATE OF OKLAHOMA, )

13 Plaintiff, )

14 vs. )

4:05-CV-00329-TCK-SAJ

15 TYSON FOODS, INC., et al, )

16 Defendants. )

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18 VOLUME I OF THE VIDEOTAPED  
 19 DEPOSITION OF BERTON FISHER, PhD, produced as a  
 20 witness on behalf of the Defendants in the above  
 21 styled and numbered cause, taken on the 3rd day of  
 22 September, 2008, in the City of Tulsa, County of  
 23 Tulsa, State of Oklahoma, before me, Lisa A.  
 24 Steinmeyer, a Certified Shorthand Reporter, duly  
 25 certified under and by virtue of the laws of the  
 State of Oklahoma.

1 Q In Opinion No. 2, you'll agree with me that  
2 you sought to describe the formation and history of  
3 each of the companies named in this lawsuit; is that  
4 a fair summary?

5 A I think that's accurate. 11:28AM

6 Q Okay. Do you consider these to be expert  
7 opinions on scientific or technical matters?

8 A These are a recitation of factual information  
9 presented in authoritative text. They've just been  
10 combined from -- one was an online text, Poultry in 11:29AM  
11 Arkansas and Arkansas Encyclopedia of History &  
12 Culture, newspaper articles, I think there's a press  
13 release from Willow Brook Foods, some press releases  
14 from Cargill, affidavits of various individuals,  
15 depositions of individuals, discovery documents that 11:29AM  
16 are identified in here, I think some stuff from  
17 Cobb-Vantress history on the Web, I think there's a  
18 book by Crisp about Peterson Farms and a book by  
19 Strausberg, From Hills and Hollers, a pretty good  
20 book. If you haven't read it, it's a good one. 11:30AM

21 So it's based on a number of sources, and it's  
22 not -- what those sources show is what I said, is  
23 the defendants have a long and substantial history  
24 of poultry production within the Illinois River  
25 watershed. 11:30AM

1 Q But the discussion in Pages 9 through 15 of  
2 your report is a factual discussion as opposed to a  
3 scientific or technical expert opinion; do you  
4 agree?

5 MR. GARREN: Object to form. 11:30AM

6 A Well, the opinion is that they've had a long  
7 and substantial history of poultry production that's  
8 based upon the facts that are discussed in 9 through  
9 15, I think you just identified.

10 Q What scientific knowledge or expertise or 11:30AM  
11 technical training did you draw upon, Dr. Fisher, to  
12 support your Opinion No. 2?

13 A The ability to take information and correlate  
14 it.

15 Q You mean the ability to read information off 11:31AM  
16 the World Wide Web?

17 A Well, not solely. Also the ability to read  
18 discovery documents, affidavits and that sort of  
19 thing and pull out the information that's relevant  
20 to development of this opinion. 11:31AM

21 Q Okay, and do you believe, sir, that you have  
22 some particular expertise that makes you more  
23 qualified than others to extract information from  
24 public records?

25 A With respect to this particular topic, since 11:31AM